

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>JAMES HAYDEN,</b>	)	<b>CASE NO. 1:17CV2635</b>
	)	
<b>Plaintiff,</b>	)	<b>SENIOR JUDGE</b>
	)	<b>CHRISTOPHER A. BOYKO</b>
<b>vs.</b>	)	
	)	<b><u>ORDER</u></b>
<b>2K GAMES INC., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**CHRISTOPHER A. BOYKO, SR. J.:**

This matter comes before the Court upon the Motion (ECF DKT #140) of Plaintiff James Hayden for Leave to File Fifth Amended Complaint in order to add NBA 2K21 and NBA 2K22 to the list of “Accused Games” produced by Defendants 2K Games, Inc. and Take-Two Interactive Software, Inc.

Plaintiff’s request to amend the Complaint in this action a fifth time was filed on March 22, 2022. Dispositive motions have been fully briefed and submitted, multiple motions to exclude expert reports have been filed by both parties and a trial date with associated briefings has been set.

The instant Motion was brought eighteen months after the release of the NBA 2K21

game and a half year beyond NBA 2K22's release. On September 29, 2021, Plaintiff reached out to Defendants for their consent to the amendment, which was declined. Nonetheless, Plaintiff waited until March of 2022 to seek the Court's permission. Defendants believe that such a late amendment will impact expert reports and dispositive motion briefing. Plaintiff disagrees with that assessment; but it is not Plaintiff's place to determine how Defendants should prepare their case.

Since Plaintiff's Motion is submitted too late in the proceedings; and because Plaintiff had the information about newly released games, but did not diligently move for the Court's permission, the Motion (ECF DKT #140) of Plaintiff James Hayden for Leave to File Fifth Amended Complaint in order to add NBA 2K21 and NBA 2K22 to the list of "Accused Games" produced by Defendants 2K Games, Inc. and Take-Two Interactive Software, Inc. is denied.

**IT IS SO ORDERED.**

**DATE: April 14, 2022**

s/Christopher A. Boyko  
**CHRISTOPHER A. BOYKO**  
**Senior United States District Judge**